SINGLE BENCH

(2) (1)

IN THE HIGH COURT OF JUDICATUERE AT BILASPUR (C.G.)

W.P. NO. 4569 /2005

PETITIONER : Madhu Kumhar, S/o- Shri Harso Kumhar, aged about 45 years, R/o- Village- Laxmipur Tehsil & District Mahasamund (C.G.)

Versus

RESPONDENTS

1. Union of India,
Through the Secretary,
Ministry of Environment and Forest,
New Delhi.

2. The state of Chhattisgarh,
Through the Secretary,
Department of Revenue,
D.K.S. Bhawan Raipur (C.G.)

3. The Secretary,
Department of Forest,
D.K.S. Bhawan Raipur (C.G.)

4. The Collector,
District - Mahasamund (C.G.)

5. The Divisional Forest Officer,
District- Mahasamund (C.G.)

6. The Forest Range Officer,
Forest Range, Pithoura,
District Mahasamund (C.G.)

7. The Forest Settlement Officer,
Forest Range, Pithoura,
District Mahasamund (C.G.)

8. The Tehsildar,
Mahasamund, District - Mahasamund
(C.G.)

9. The Chief Conservator of Forest,
Raipur, District- Raipur (C.G.)

P.R. No. 4632/05 Shiv Sahu
Presented by - Shiv Sahu
dated 8/9/05

RECEIVED 7-9-
C.E.H.C. A. G. BILASPUR

Received the copy
Madhukar
Central Govt Counsel
07-09-05

(3) (2)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUING DIRECTION

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(63)

मामला क्रमांक WP 4569/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23.9.2005

Shri F.S. Khare, counsel for the petitioner.

Shri Bhisma Kingar, Standing Counsel for respondent No.1.

Shri Sandeep Dubey, Govt. Adv. for respondent Nos. 2 to 9.

Heard.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India.

The case of the petitioner is that he is a permanent resident of Village Laxmipur , Forest Range Pithora, Tehsil & District Mahasamund. As the petitioner is a landless agriculturist, therefore, he started cultivating the forest land of about 6 acres situated at Forest Compartment No.658 total area 800 acres since 1972 i.e. about 33 years. In the year 1991 under the provisions of Forest (Conservation) Act, 1980 the then State of M.P. had granted Bhumiswami right to the various agriculturists of Village Bhetihidih covering an area of 154 acres out of that 800 acres land of Compartment No.658. The petitioner herein and villagers of other adjacent villages were under impression that Bhumiswami right would also be granted to them by the Government, but when no action was taken the petitioner along with other villagers contacted the officers of the Forest & Revenue Department and they had assured that the case of the petitioner and other villagers would be considered. But

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(64)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश – 2 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

even then no action has been taken, therefore, the petitioner along with other villagers made a representation (Annexure P-2) to respondent No.7-Forest Settlement Officer, Pithora in the year 1994. Thereafter, the petitioner along with other villagers repeatedly approached the respondent authorities and again made a representation to the Chief Minister of the State (Annexure P-3). On 5.8.2004, the Joint Secretary to the Chief Minister directed the Collector, Mahasamund for survey of Compartment No.658 through the Revenue Department. On 12.10.2004 the Deputy Collector, Land Records directed the Additional Tehsildar, Pithoura for sending the representation immediately after survey of the Compartment No.658 as per rule. The Additional Tehsildar conducted the survey on 30.12.2004, thereafter, a map of Compartment No.658 was prepared and Gram Panchayat Kishanpur & Van Gram Samiti have also given no objection on 27.5.2005 (Annexure P-8 & P-9), but even then nothing has been heard from the side of respondents authorities.

Now the Forest (Conservation) Rules, 2003 (hereinafter shall referred to as "Rules of 2003") has been framed and under Rule 3 of Rules of 2003 a Forest Advisory Committee and under Rule 4 a Regional Empowered Committee has been constituted by the Central Government and these Committees have power to decide or give opinion in all the matters relating to the forest. The State

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(65)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Government is required to send the proposal to the concerned authority under sub-rule (4) of Rule 6 of the Rules of 2003 for approval of the Central Government. Ultimately, a prayer has been made that the respondents be directed to grant Bhumiswami right to the petitioner, as per rule, over 6 acres of land.

Counsel for the petitioner submits that the petitioner has already applied for user of the land in question before the concerned authority in Form A & B as per Rule 6 of the Rules of 2003, but the Forest State Authorities are not enquiring into and not taking appropriate action. Therefore, they be directed to take appropriate action, to which learned Standing Counsel for respondent Nos.1 Shri Kingar & learned Govt. Advocate for respondent Nos.2 to 9 Shri Dubey, have no objection.

The prayer made by counsel for the petitioner appears to be just, fair and reasonable, therefore, respondent No.2 is directed to get the proposal of petitioner examined in accordance with the Rules of 2003 and in case proposal is found to be acceptable and covered under the said rules, then respondent No.2 should send his report to the Central Government in accordance with the Rules of 2003 within a period of 06 months.

With the direction aforesaid, the petition stands disposed of.

Consequently, M.(W.)P.No. 3707/05 & I.A. No. 8235/05 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge